1949. File No. S.Bij 5/49

Legal Department-

A BRANCH

Subject:— Suits Bijapur

Civil Suit No. 25 of 1949

The Province of Bombay -- Plff

Vs

Mr. Gurunao Bhimaji Kulkarni -- Deft.

Claim Rs. 3530-8-4

Institution of a suit against Mr. G. B. Kulkarni, Ex godown keeper of Salwadgi in Muddebihal Taluka for recovery of Rs. 4530-8-4.

P-11 = E

File No. S. Bijapur 5/49

S.Bij 5/49

Gen.194—3578—1,00,000—8-49—

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Suits Bijapur.

C.S.No. 25/1949.

1) The Province of Bombay

v/s. plff.

1) G.B. Kulkarni, Brahmin.

Deft.

Institution of a suit against Mr. G.B. Kulkarni, Ex-godown Keeper of Salwadgi in Muddebihal Taluka, for recovery of Rs. 4,530-6

1) Printed G.R.L.D. 10911 14th Nov. 1948 — Sanctioning the institution of a suit.

2) G.R.L.D. 14812. 20th Dec. 1949 — Recording the result of the suit.

19

Mr. G. B. Kulkarni, an ex-godown keeper misappropriated Government foodgrains of the total value of Rs. 4,530-8-4. A sum of Rs. 1,000/- was recovered from his surety. For the balance a suit is proposed to be filed as advised by the R.L.A.

The institution of the suit may be sanctioned on the lines of the appended brief.

RLL
28/10/66

~~R.L.A~~ A.L.R

As will have to point out in the memorandum of instructions how the claim is valued at Rs 3530-8-4 & examine the details & consider whether the claim comes to that amount and amend the memo of instructions accordingly.

R.L. 28/10

A.S.

The statement at p 29 of file I± which accompanies the memorandum of report at p 25- of the same file gives the details of the amount of Rs 45-30-8-4 being the value of the misappropriated grain. Reference to the enclosure has been made in para 3 of the memorandum of instructions. The amount of Rs 100 recovered from the surety is deducted from the net claim comes to Rs 3530-8-4.

I presume the A.C.R referred to in the bracketed portion is to be omitted.

RLL
29/10/66

I have tried to check up the figures. They appear to be correct. The quantities given in columns 2&3 and the prices given in col. 5 will have to be presumed to be correct.

The portion bracketed may be omitted from the memo of instructions.

R K 30/10

R L A 30/10.

Subs. after issue

These papers may be sent to the Secy Civil Supplies Dept. for the perusal of the Memo of Instructions & that Dept. may be requested to return the papers of this Dept. after perusal (after retaining their papers).

15/11.

A.A.S. 15/11

R L A 16/11.

Secy C.S.D. 16/11

Dy Dep(B) 17/11

U.O.R to L.D. at 3 p.m.

L. D. 1 DEC 1918

No. 905 of 1948.
24-11-1948.

1/13

To

The Remembrancer of Legal Affairs,
Bombay.

Subject:- Draft of plaint for filing suit against Gururao Bhimaji Kulkanri -Godown-keeper of Salwadgi in Muddebihal taluka.

Sir,

With reference to your Memo No.10409 of 5-11-1948 I have the honour to forward herewith a draft for favour of revision and approval. The revised copy of the plaint for filing the suit and the 2 files which may also be returned to me as early as possible.

Court-fee required for filing the suit would be Rs. 256-4-0 and as therein no amount of permanent advance sufficient to meet this exependiture I have separately sent to-day a bill for Rs.256-4-0 for favour of your countersignature.

Yours faithfully

District Government Pleader, Bijapu

Sub

Please see the letter from The D.C.P. Enquirer
overleaf. He has sent the draft blank "pl."
for approval. These pls could not be sub
earlier as they were sent to C.S. Dir personal

RLH
2.1.12

H.H.S. The plaint is slightly corrected
& in order & may be approved.

RLW
1/3/12

RLH
1/3/12

23

Suits.
Bijapur.
Institution of a suit against Mr.G.B.Kulkarni, Ex-godown keeper of Salwadgi in Muddebihal Taluka, for recovery of Rs.4530-8-4.

GOVERNMENT OF BOMBAY.
Legal Department.
Resolution No. 1482
Bombay Castle, 20th December 1949.

Read Government Resolution, Legal Department No.10911 dated the 19th November 1948.

Endorsement from the District Government Pleader,Bijapur No.434, dated the 21st June 1949- Forwarding uncertified copy of judgment and stating that the suit noted in the margin was disposed of by the Court on the 11th June 1949 and that the result is in favour of the Government.

In the Court of the Civil Judge(Senior Division) Bijapur.	
Civil Suit No.25 of 1949.	
The Province of Bombay.... Plaintiff vs. Gururao Bhimaji Kulkarni. Defendant. Claim Rs.3530-8-4.	

Endorsement from the District Government Pleader,Bijapur No.521 dated the 14th July 1949 stating that the defendant has made an application to the Court for setting aside the ex-parte decree and requesting sanction to the defence of the application.

Memorandum to the District Government Pleader,Bijapur No.9821, dated the 30th August 1949 requesting to oppose the defendant's application.

Endorsement from the District Government Pleader,Bijapur No.842 dated the 17th November 1949 forwarding copy of the application together with the order of the Court and stating that the application was dismissed with costs on the 14th November 1949.

Resolution:- The result of the suit is recorded.

By order of the Governor of Bombay,

original

R.M.Mehta

R.M.Mehta,
Assistant Secretary to Government.

To
The Civil Supplies Department,
The Commissioner, Southern Division,
The District Magistrate, Bijapur.

Issued
20/12
KML/17
PGS 17/XII

Submitted for signature
A.S.
20/12
19/12

Civil Suit No. 25/49

In the Court of the Civil Judge Senior Division, Bijapur.

At Bijapur.

1. The Provin of Bombay.. . plaintiff.

Vs.

1. Gurunao Shimoji Kulkarni defendant.
Brahmin, agriculturist,
living at Salwadgi taluka
Muddebihal.

Claim Rs. 3530-8-4.

Plaintiff submits as follows:-

1. That the plaintiff opened a godown at Salwadgi in Muddebihal taluka to stock Government food-grains. The defendant was appointed as its go own keeper and was incharge of it from 13-9-1946 to 12-4-1948.

2. The defendant was in possession of the godwon and the food grains stocked therein. The defendant submit the weekly report (as per rule) to the taluka office on 5-4-1947 showing the stock of food-grains on hand on that date. The said stock is shown in column 3 of schedule A herewith annexed.

3. The Prant Officer and Mamlatdar of Muddebihal went to the said godown on 12-4-1947 under the order of District Magistrate, Bijapur to inspect the stock of food-grains. The defendant has absconded with the account boo and other documents. The said officers opened the godown in the presence of the Panchas and found only the quantit of grains as described in column 4 of the said schedule.

4. The defendant has thus misappropriated Government food grains as shown in schedule A column 7 and so he is liable to pay Rs. 3530-8-4 the value of the grains misappropriated, as shown in column 7.

5. The defendant had given a surety for Rs.1000 at the time of his appointment and the said amount of Rs.1000 has been recovered from the surety. Hence this suit for the recovery of Rs.3530-8-4 from the defendant.

The cause or action for this suit arose on or about 12-4-1947 when the misappropriation was found out at Salwadgi within the jurisdiction of this court.

7. The suit is valued at Rs.3530-8-4 for the purpose of court-fee and it is the same for the purpose of jurisdiction and pleaders fee.

8. This court alone has jurisdiction to try this suit as the Province of Bombay is the plaintiff.

It is therefore prayed that a decree for Rs.3530-8-4 with interest at 6% from the date of suit together with costs be passed against the defendant.

Sd/- K.R.Rao
District Government Pleader, Bijapur.

I, K.R.Rao, District Government Pleader, Bijapur hereby declare that what is stated in paras 1 to 8 above is true on information received and believed to be true.

Signed on 7-1-49 at Bijapur.

Sd/- K.R.Rao
District Government Pleader, Bijapur.

"True Copy"

K.R.K.
Dist. Govt. Pleader
Bijapur.

Schedule A.

Statement showing the total stock of food grains as per book balance and the stock actually found after verification and the stock misappropriated etc by the godown keeper Selwadgi taluka Murgodbihal.

rial No.	Kind of grain.	Balance with the godown keeper on 5-4-47 as per taluka L.F.O.	Balance physically found with the G.K.as verified by the Grant officer on 12-4-1947.	Stock mis-appro-priated.	Levy purchase rate per bag.	Value of misappropriated stock at the levy purchase rate.
2		3	4	5	6	7
		Bags- Sers.	Bags- Sers.	Bags- Sers.	Rs. As. Ps.	Rs. As. Ps.
	Kharif Jawar.	79 - 0	0-M-0.	79 - 0	16 - 0 - 0	1264 - 0 - 0.
	Rabi Jawar	141 - 0	0- 116	140 - 4	18 - 7 - 0.	2584 - 0 - 10-
	Bajri	39 - 0	3- 4M	35 - 6	17 - 8 - 8	600 -12 - 6.
	Wheat	3 - 0	----	3 - 0	30 - 0 - 0.	90 - 0 - 0.
						4538 - 12 - 4.
				Deduct value for 37 bags of Rabi Jawar purchased under voucher no.138 of 20-11-46 paid less by the godown-keeper.		8 - 5 - 0.
				Total value of the misappropriated stock.		4530 - 8 - 4.

9 55

Received on :- 7-1-1949. Registered on :- 13-1-1949.

Decided on : 11-8-1949. Duration : Y. Nil Months 4 Days 28

Exh. No. 6

In the Court of the Civil Judge, Sr. D.,

At Bijapur.

Pleaders. Civil Suit No. 28 of 1949.

K.B. Rao. 1. The Province of Bombay. Plaintiff.

Against.

parte. 1. Gururao Bhimaji Kulkarni of Salwadgi. Defendant.

Claim Rs. 3530-8-4.

JUDGMENT.

This is a suit to recover Rs 3530-8-4 and for incidental reli

2. The plaint is based on the allegations that the Government of Bombay opened a godown at Salwadgi, that the services of the defendant were engaged as a godown keeper from 19-8-1946, that he misappropriated the grain and absconded, that the grain misappropriated was worth Rs 4530-8-4, that a sum of Rs 1000/- was recovered from the surety and that the cause of action arose in 1947.

3. The defendant allowed the suit to proceed ex-parte.

4. The issues for decision are :-

1. Whether the defendant was engaged as a godown keeper by

the plaintiff?

2. Whether he was entrusted with grain as a godown keeper ?

3. Whether he misappropriated grain worth Rs 4850-8-0?

4. Whether a sum of Rs 3530-3-4 is due to Government?

5. My findings are :-

1. Yes.

2. Yes.

3. Yes.

4. Yes.

6. REASON:

The defendant allowed the suit to proceed ex-parte. The Government of Bombay has examined one Abdul Khadir (Exh.5), who swears that the allegations in the plaint are true. I believe his version.

7. In the result, I pass a decree against the defendant for Rs 3530-3-4 and costs of suit and future interest at 6% from suit date on Rs 3530-3-4.

June 11, 1949.

[illegible]

Civil Judge, Sr.Dn.
11-6-49.

Typed by

cc True copy

Dist. Court Pleader

Magistrate Bijapur under C.P.C. Rule 9 and V.

D E C R E E.

In the Court of the Civil Judge, Sr.Dn.

Bijapur.

Civil Suit No. 26 of 1949.

1. The Province of Bombay. .. Plaintiff.

Vs.

1. Gururao Bhimaji Kulkarni, Brahmin,
Agriculturist, living at Salwadgi, Tal:
Muddebihal. .. .. Defendant.

Claim Rs. 3830-6-4.

Plaintiff submits as follows:-

1. That the plaintiff opened a godown at Salwadgi in Muddebihal taluka to stock Government foodgrains. The defendant was appointed as its godown keeper and was in charge of it from 1-9-1946 to 12-4-1948.

2. The defendant was in possession of the godown and the food-grains stocked therein. The defendant submitted the weekly report (as per rule) to the Taluka Officers 5-4-1947 showing the stock of food grains on hand that date. The said stock is shown in column 3 of Schedule A herewith annexed.

3. The Prant Officer and Mamlatdar of Muddebihal went to the said godown on 12-4-1947 under the order of the District Magistrate Bijapur to inspect the stock of food grains. The defendant was absent from the village and was found absconding with the account books and other documents. The said officers opened the godown in the presence of the Panchas and found only the quantity of grains mentioned in column 4 of the said Schedule.

4. The defendant has thus misappropriated Government food-grains mentioned in Schedule A and so he is liable to pay Rs 3830-6-4 the

value of the grains misappropriated as shown in column 7.

5. The defendant had given a surety for Rs 1000/- at the time of his appointment and the said amount of Rs 1000/- has been recovered from the surety. Hence this suit for recovery of Rs 3530-8-4 from the defendant.

6. The cause of action for this suit arose on or about 12-6-1947 when the misappropriation was found out at Salwadg within the jurisdiction of this court.

7. The suit is valued at Rs 3530-8-4 for the purpose of court fee and it is the same for the purpose of jurisdiction and pleaders fee.

It is therefore prayed that a decree for Rs 35 30-8-4 with interest at 6% from the date of suit together with costs be passed against the defendant.

The suit coming before A.C. Sequeira , Esquire, Civ Judge, Sr.Dn., Bijapur, on 11th June 1949, Mr. K.R. Rao plea for the Province of Bombay and defendant exparte , the court ordered and decreed as below:-

In the result,I pass a decree against the defendant for Rs 3530-8-4 and costs of suit and future interest at 6 p fro suit date on Rs 3530-8-4.

Bill of costs.

Plaintiff.

	Rs.	As.	P.
1. For plaint.	250	- 4	- 0
2. Vakalatnama.	0	- 0	- 0
3. For Exhs. 4	0	- 10	- 0
4. Process fee.	8	- 0	- 0
5. Pleader's fee on Rs 3530-8-4.	145	- 12	- 0
6. Copying fee .	0	- 0	- 0
7. Witness fee.	0	- 0	- 0
Total	Rs 405-	16	- 0

Given under my hand and seal of the Court on 11th June 1949.

59
1/13

Md. R.T. Padatare,

Clerk,

Plaintiff's pleader.

Civil Judge, Jr.Dn.
Bijapur.

14 -6- 1949.

The parties to this litigation are hereby informed that the documents if any produced by them, if not taken (back) are liable to be destroyed (will be destroyed) after the disposal of appeals, if any, preferred.

Typed by

Copying clerk.

True Copy

Kulkarni
Asst Govt Pleader
Bijapur

Misc. Application No. 34/1949.
(C.S.No.25/49).

In the Court of the Civil Judge(Sr.Dn.)

Bijapur.

1. Gururao Bhimaji Kulkarni, age caste Brahmin, occupation agriculture, residence Salwadgi taluka Muddebihal. — Applicant-deft.

Vs.

1. The Provinceaxx of Bombay. — Opponent-plff.

Herein the Deft-applicant begs to state as follows:-

1. The Plff-opponent brought civil suit No.25/1949 for recovery of Rs.3530-8-4 from the deft. and the suit was fixed for the Deft's appearance on 11-6-1949. The deft. sent his vakalatnama which reached the pleader in the morning of 11-6-1949. The packet containing the Vakalatnama was delivered at the house of the pleader in his absence in the morning of 11-6-1949, which being Saturday the Court was held in the morning.

2. The packet remained at home unopened and the pleader was quite unaware of his engagement on behalf of the deft. when the suit was called on for hearing and was heard in court on 11-6-1949, morning. The deft. remained unrepresented and the suit was heard exparte with the result that the whole of the claim of Rs.3530 and odd was decreed against the Deft. It was only on the return of the pleader from the court that he found that packet and came to know of his engagement. The amount decreed is a big one and the deft is put to a great loss thereby.

3. The deft is a poor agriculturist and the court ought not to have passed an exparte decree against him with out compulserily examining him under section 7 of the D.A.R.Act.

It is therefore requested that the court will under the above circumstances be pleased to kindly set aside the exparte decree now passed against the deft.

and restore the suit for trial on merits.

Sd. V.P.Parwatikar.
Pleader.

.Enclosure.
one cover.

Order.

Dissmissed for default. Opponent(Govern
to get costs.

14-11-1949. Sd. A.C.Sequiera.
Civil Judge.Sr.D

True Copy

Suits :

Bijapur.

Institution of a suit against Mr. G. B. Kulkarni, Ex-godown Keeper of Salwadgi in Muddebihal Taluka, for recovery of Rs. 4,530-8-4.

GOVERNMENT OF BOMBAY.

LEGAL DEPARTMENT.

Resolution No. 10911.

Bombay Castle, 19th November 1948.

Letter from the District Magistrate, Bijapur, No. C.S.E.S.T. 12, dated the 4th October 1948—Forwarding the papers and requesting sanction to the institution of a suit against Mr. G. B. Kulkarni, ex-godown keeper of Salwadgi, for recovery of Rs. 4,530-8-4 on account of the stock of Government foodgrains misappropriated by him.

Memorandum to the District Government Pleader, Bijapur, No. 10409, dated the 5th November 1948—Forwarding a copy of the Memorandum of Instructions together with its accompaniments in advance.

RESOLUTION.—Sanction is accorded to the institution of a suit against Mr. G. B. Kulkarni for the recovery of the said amount in the Court of the Civil Judge (Senior Division), Bijapur.

By order of the Governor of Bombay,

P. M. LAD,
Remembrancer of Legal Affairs.

original

To

*The Civil Supplies Department,
*The Commissioner, Southern Division,
*The District Magistrate, Bijapur,
The District Government Pleader, Bijapur (with two copies of the Memorandum of Instructions).

* With a copy of the Memorandum of Instructions.

No. of 1949.

Copy forwarded for information and guidance to

B 29
19

BIJAPUR SUIT—INSTITUTION OF—AGAINST MR. G. B. KULKARNI, GODOWN KEEPER OF SALWADGI IN MUDDEBIHAL TALUKA.

Memorandum of Instructions.

A suit is to be filed against Mr. G. B. Kulkarni, ex-godown keeper of Salwadgi, taluka Muddebihal, for recovery of Rs. 4,530-8-4 on account of the stock of Government foodgrains misappropriated by him.

2. On receipt of a telegram from the District Magistrate of Bijapur the Mamlatdar of Muddebihal and the Prant Officer, Bagalkot Division, went to Salwadgi on 12th April 1947. The godown keeper was absent from the village and was found absconding. The godown was opened in the presence of the panchas and the Prant Officer and it was found to contain 4 bags of bajri, one bag of rabi jowar and one more bag with some bajri in it.

3. According to the godown keeper's report for the week ending 5th April 1947 the balance of foodgrains in the godown should have been 79 bags of kharif jowar, 39 bags of bajri, 141 bags of rabi jowar and 3 bags of wheat of the approximate value of Rs. 4,900. An examination of the accounts of the godown keeper showed that he had misappropriated foodgrains worth Rs. 4,530-8-4 (*vide* Mamlatdar's report at p. 25 of file II).

4. The godown keeper had given a surety of Rs. 1,000 and the sum of Rs. 1,000 has been recovered from that surety. The balance of Rs. 3,530-8-4 is therefore to be recovered from him by filing a suit.

5. The suit should be filed in the Court of the Civil Judge, Senior Division, Bijapur. The Province of Bombay should be named as the plaintiff. Mr. G. B. Kulkarni will be the defendant. The Collector's report indicates the evidence which will be available for Government.

6. The Court should be asked to pass a decree in favour of Government for Rs. 3,580-8-4 with simple interest thereon at 6 per cent. from the date of the suit and costs. The District Government Pleader is requested to draft a plaint and forward it to the Remembrancer of Legal Affairs for approval before filing the suit.

Submitted. 21/75

This is an institution of a suit against Mr. S.B. Kulkarni for recovery of Rs. 3530-8-4. The defendant Mr. S.B. Kulkarni has allowed the suit to proceed ex-parte (Pl. see Judgment at page 55-56 ante) and the court has passed a decree against the defendant. Again the defendant has filed Misc Applin. No. 34 of 1949 for restoration of the suit for trial on merits. But that application also has been dismissed by the court. The result of the suit is in favour of Govt. and may be recorded by a S.R.

x page 76 ante.

10-12

H.S.

12/12

RCA

12/12

24

16

Submitted after recast
file in S. Bijapur/49 (New No)

Ad
21/12

29/12/11